

CERTIFIED TRUE COPY

RECEIVED AND FILED  
WITH THE  
N.J. BOARD OF DENTISTRY  
ON 12-5-91 cm

ROBERT J. DEL TUFO  
ATTORNEY GENERAL OF NEW JERSEY

By: Anne Marie Kelly  
Deputy Attorney General  
Division of Law 5th Floor  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101  
Tel. (201) 648-4738

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
DOCKET NO.

---

IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF :  
: :  
JAMES J. LAVALLA, D.D.S. :  
: :  
TO PRACTICE DENTISTRY IN THE :  
STATE OF NEW JERSEY :  
:

---

Administrative Action  
ORDER

This matter was opened to the New Jersey State Board of Dentistry on November 27, 1991 by way of administrative complaint seeking the suspension or revocation of the license to practice dentistry of Respondent, James J. Lavalla, D.D.S. filed by Robert J. Del Tufo, Attorney General of New Jersey, by Anne Marie Kelly, Deputy Attorney General appearing, Michael J. Weiss, Esq. appearing on behalf of Respondent, Respondent also appearing.

The Complaint alleged that on April 25, 1983 a Final Decision and Order was entered by the New Jersey Board of Dentistry against Respondent finding that over a five year period of time Respondent indiscriminately purchased, self-dispensed and ingested an extensive

amount of Schedule II Controlled Dangerous Substances, notably Dexamyl. The Complaint further alleged in Count I that from May 1989 to September 1990, Respondent had ordered from drug wholesale distributors 2940 unit dosages of Controlled Dangerous Substances and failed to maintain records relating to the dispensing of these drugs; in Count II that from August 1987 to June 1990 Respondent treated Barbara Lavalla (respondent's wife) for temporomandibular joint disorder and his sole course of treatment was prescriptions of controlled dangerous substances in excess of 690 dosage units; and in Count III that Respondent wrote 38 prescriptions for various controlled dangerous substances in the name of Barbara Lavalla and failed to chart 32 of these prescriptions in her treatment record. Dr. Lavalla testified at the hearing that he was waiving a trial on the complaint and entered a plea of non vult to these charges. Respondent further testified that he understood and consented to the terms of this order.

THEREFORE, it is on this 4<sup>th</sup> day of DEC 1991

ORDERED that:

1. The license to practice dentistry of Respondent, James J. Lavalla, D.D.S. be and is hereby revoked for a period of two years which shall commence January 15, 1992.
2. Dr. Lavalla shall be given an opportunity to appear before the Board and present factors of mitigation in the form of oral argument.
3. During the two year period of revocation, Dr. Lavalla shall not engage in the practice of dentistry as defined in N.J.S.A. 45:6-19 and shall comply with the "Directive Regarding Future Activities of Dental Board Licensee Who Has Been Disciplined" which is

attached hereto as Exhibit A and made a part of this Order.

4. The Board will not entertain any petition for reinstatement of licensure until the conclusion of the two year revocation period.

5. As a condition of relicensure Respondent shall provide the Board with documentation of his successful completion of the mini-residency course entitled "The Proper Prescribing of Controlled Dangerous Substances" offered by Dr. William Vilensky and sponsored by the University of Medicine & Dentistry of New Jersey at the Robert Wood Johnson Medical School in Camden, New Jersey. Dr. Lavalla shall be required to complete the didactic and the clinical portions of this course.

6. As a condition of relicensure Respondent shall participate in the Impaired Dentists Program and shall provide the Board with a report and comply with any recommendations from that Program as to any substance abuse problems of Dr. Lavalla.

7. From the commencement of revocation of his license until March 31, 1992, Dr. Lavalla shall be permitted to rent or lease his practice to another dentist. For purposes of this order, "practice" shall include but not be limited to dental material, equipment or office. During this time, he will derive no income from the practice and may only accept a rental or lease fee which shall not be related to patient volume or fees received from patients for the practice. Dr. Lavalla shall provide the Board with full disclosure of the leasing arrangements, including but not limited to the name of the leasing dentist and a copy of the lease and any other agreement with respect to the leasing or rental of the practice. He shall not be permitted to

rent or lease the practice beyond March 31, 1992.

8. Upon the revocation of his license, Dr. Lavalla shall not enter the premises where his practice is located with the sole exception of showing it to prospective buyers. In that event he shall maintain records of such visits.

STATE BOARD OF DENTISTRY

William Cinotti, D.D.S.  
William Cinotti, D.D.S., President

DIRECTIVE REGARDING FUTURE ACTIVITIES OF  
BOARD OF DENTISTRY LICENSEE WHO HAS BEEN DISCIPLINED

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) The disciplined practitioner shall promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) The disciplined practitioner shall refrain from the practice of the licensed profession in any form either as employer or employee of another.
- 3) The disciplined practitioner shall inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new professional is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing medical record to the new professional, or to the patient if no new professional is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) The disciplined practitioner shall not occupy, share or use office space in which another licensee practices the profession.
- 5) The disciplined practitioner shall refrain from furnishing professional services, giving an opinion as to the professional practice or its application, or any advice with relation thereto.
- 6) The disciplined practitioner shall refrain from holding him/herself out to the public as being entitled to practice the

EXHIBIT A

profession and shall refrain from using or advertising in any language or in any means so as to convey to the public the impression that such person is a licensed practitioner or authorized to practice the licensed profession. This prohibition includes refraining, during the period of suspension or revocation, from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing, such as listing in a professional directory of any type, a telephone directory, or radio or television advertisement.

7) The disciplined practitioner shall not use any sign or advertisement that such person, either alone or with any other person owns, conducts or maintains a professional office or office of any kind for the practice of the profession or that such person is entitled to practice, and such person shall promptly remove any sign suggesting ability of the disciplined practitioner to practice the profession.

8) The disciplined practitioner shall cease to use any stationery whereon such person's name appears as a professional in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any other use until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed of, transferred or safeguarded.

9) The disciplined practitioner shall require that for up to a six-month period following the start of a suspension or revocation of license, a message be delivered to those telephoning the former office premises advising former patients where they may obtain their records. The message may inform callers that the practice is now being conducted by another named licensee, and the new telephone number of that licensee may be announced. The same information may also be disseminated by means of a notice published in a newspaper of general circulation in the geographic vicinity in which the professional practice was conducted.

10) The disciplined practitioner shall not share in any fee for professional services performed by any other professional following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

11) The disciplined practitioner may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee,

whether by percentage of revenue, per capita patient, or by any other device or design, however, denominated. A disciplined practitioner whose license has been suspended may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and/or equipment. A disciplined practitioner whose license has been revoked may accept no remuneration for the use of dental equipment by another licensee.

(c) No use of name of disciplined licensee or personally owned office name or tax or provider identification number:

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.



12) The disciplined practitioner shall report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patient or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

13) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

(a) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the New Jersey State Board of Dentistry in good standing.

(b) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

14) A disciplined practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 30 days after the effective date of the Board Order, file with the Secretary of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence address or telephone number shall be promptly reported to the Secretary.

RE: Directive Regarding  
Dentistry Activities

Page -6-

15) Failure to comply with this directive may result in supplementary disciplinary proceedings or delay of license reinstatement.